IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 4TH JANUARY 2007 / 14TH PAUSHA 1928

WP(C).No. 21423 of 2006(A)

PETITIONER:
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1. K.P.SASEENDRAN,
S/O.PARAMESWARAN, KOLATHUKUDY HOUSE,
KELAKAM.

2. C.P.JALAJA,
W/O.BALACHANDRAN, KOLATHUKUDY HOUSE,
KELAKAM.P.O, KANNUR DISTRICT.

BY ADV. SRI.C.S.MANU

RESPONDENTS:
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1. STATE OF KERALA,
REP. BY THE SECRETARY TO GOVERNMENT OF KERALA,
DEPARTMENT OF REVENUE,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. REVENUE DIVISIONAL OFFICER,
THALASSERY.

3. TAHSILDAR,
THALASSERY TALUK.

4. VILLAGE OFFICER,
KELAKAM VILLAGE,
KELAKAM.

BY GOVERNMENT PLEADER SRI.SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN, J.

W.P.(C) NO.21423 OF 2006

Dated this the 4th day of January, 2007

J U D G M E N T

The petitioners earlier approached this court challenging the assessment made under the Kerala Building Tax Act by filing writ petition No.4765/05. That was allowed in their favour by directing the Assessing Officer to pass fresh orders by affording an opportunity of being heard to the petitioners, enabling the petitioners to produce evidence such as agreement for construction executed among the various parties for construction purpose, amounts pooled etc so as to find whether the construction cost was made by the petitioners and the builders in joint names or whether the petitioners had made payments by each and every owner towards the cost of construction. Subsequently, Exhibit P3 order is passed. In para 4 of the order, it is stated that in the light of the judgments, petitioners were given opportunity through notices dated 2/9/05, 5/10/05 and 18/11/05 to produce the above mentioned documents. But inspite of the opportunities given, they did not produce any such documents and accordingly impugned order was passed.

2. Learned counsel appearing for the petitioners submits that subsequently by Exhibit P4 application they have produced the relevant documents and sought for a rehearing. Since the Assessing officer has already passed orders, if the petitioners feels aggrieved, they necessarily have to prefer an appeal. Availing the opportunity given to them as directed by this court, they having failed to produce the materials, there is no reason to entertain the writ petition under Article 226 straight away.

3. Without prejudice to the right of the petitioners to prefer appeal, this writ petition is dismissed.

4. If the petitioners pays 1/4th of the amount as per the assessment orders and files an appeal before the appellate authority within a period of one month from today, the appellate authority shall dispose of the appeal in accordance with law.

Writ petition is dismissed subject to the above observation.

Produce copy of this order along with the appeal for information and compliance.

P.R.RAMAN, JUDGE

Rp